



## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

[Docket No. TTB-2024-0002; Notice No. 232]

### Labeling and Advertising of Wine, Distilled Spirits, and Malt Beverages with Alcohol Content, Nutritional Information, Major Food Allergens, and Ingredients

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Announcement of listening sessions; request for comments.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau (TTB) is announcing virtual listening sessions to receive input from the public on labeling of wine, distilled spirits, and malt beverages to disclose per-serving alcohol and nutritional information, major food allergens, and/or ingredients. The Department of the Treasury's February 2022 report on "Competition in the Markets for Beer, Wine, and Spirits" recommended that TTB revive or initiate rulemaking in these areas. These listening sessions are intended to engage the public, including consumers, public health stakeholders, and industry members of all sizes, and facilitate the public's ability to provide input to inform rulemaking. This notice sets forth the dates and times of the virtual listening sessions and instructions for registration. It also opens a docket for submitting written comments on the issues to be discussed in the listening sessions.

**DATES:** *Listening sessions and requests to speak:* The virtual listening sessions will be held February 28, 2024, from 10 a.m. to 2 p.m., Eastern Standard Time; and February 29, 2024, from 1 p.m. to 5 p.m., Eastern Standard Time. The deadline to register to virtually attend either session is 12 p.m., Eastern Standard Time, February 27, 2024. Submit requests to speak during

one of the listening sessions by 12 p.m., Eastern Standard Time, on February 26, 2024. If all registered speakers have had an opportunity to speak, the session may conclude early.

*Comment submissions:* Written comments on this notice must be submitted by 11:59 p.m. Eastern Standard Time, March 29, 2024. For additional registration information, see the **SUPPLEMENTARY INFORMATION** section below.

**ADDRESSES:** Additional details, such as registration information, are available at <https://www.ttb.gov/laws-regulations-and-public-guidance/listening-session>.

You may also electronically submit comments to TTB in response to this notice and view any comments TTB receives on it within Docket No. TTB–2024–0002, as posted at <https://www.regulations.gov>. A direct link to this notice is available on the TTB website at <https://www.ttb.gov/rrd/miscellaneous-federal-register-documents>. Alternatively, you may submit comments via postal mail to the Director, Regulations and Ruling Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005. Please see the **Public Participation** section of this document for further information on the comments requested and the submission, confidentiality, and public disclosure of comments.

**FOR FURTHER INFORMATION CONTACT:** Curt Eilers, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; telephone 202–453–1039, ext. 041.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The purpose of this notice is to announce virtual listening sessions and the opening of a public docket to receive input from the public on labeling of wine,

distilled spirits, and malt beverages with per-serving alcohol and nutritional information, major food allergens, and/or ingredients. The Department of the Treasury's February 2022 report on "Competition in the Markets for Beer, Wine, and Spirits" recommended that TTB revive or initiate rulemaking in these areas. These listening sessions are intended to engage the public, including consumers, public health stakeholders, and industry members of all sizes, in addition to those who may traditionally respond through the rulemaking process, and facilitate the public's ability to provide input to inform rulemaking.

The Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e)(2), authorizes the Secretary of the Treasury to prescribe regulations that will provide adequate information as to the identity and quality of alcohol beverages. The FAA Act does not require alcohol beverage labels to disclose a full list of ingredients,<sup>1</sup> any major food allergens<sup>2</sup> used in the production of alcohol beverages, or nutritional information such as the number of calories or the amount of carbohydrate, protein, fat, or other nutrients. TTB and its predecessor agencies have published regulations on the labeling of wine, distilled spirits, and malt beverages in parts 4, 5, and 7, respectively, of chapter I of title 27 of the Code of Federal Regulations (27 CFR chapter I). TTB also has provided standards for voluntary nutrient content statements (TTB Ruling 2013–2), standards for voluntary disclosures of major food allergens (27 CFR 4.32a–4.32b, 5.82–5.83, and 7.82–7.83), and requirements for alcohol content

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<sup>1</sup> TTB regulations do require the disclosure of certain specified ingredients that the Food and Drug Administration (FDA) determined posed a recognized health problem. TTB regulations require labels to disclose the presence of FD&C Yellow No. 5, cochineal extract or carmine, and sulfites (when present in alcohol beverages at a level of ten or more parts per million). The regulations also require a warning statement when aspartame is present. See 27 CFR 4.32, 5.63, and 7.63.

<sup>2</sup> Major food allergens include milk, eggs, fish, Crustacean shellfish, tree nuts, peanuts, wheat, soybeans, and sesame. See 21 U.S.C. 321(qq) and 343(w). More information on major food allergens is available at <https://www.fda.gov/food/food-labeling-nutrition/food-allergies>.

disclosures for most alcohol beverages (27 CFR 4.36, 5.65, and 7.65). TTB is now considering whether the disclosure of the information currently subject to voluntary standards should instead be required; whether required alcohol content disclosures should be expanded to a broader scope of beverages; and, if so, how the information should be presented.

In 2005, TTB sought comments in an advance notice of proposed rulemaking on alcohol content, nutritional information, major food allergen, and ingredient labeling. See Notice No. 41 (70 FR 22274, April 29, 2005).

TTB is now seeking updated input regarding these topics. We are particularly interested in whether consumers will find such information useful, the costs and burdens associated with industry members providing that information, and alternate approaches for providing that information in a way that is both effective and appropriately balances the benefit to consumers with the costs and burdens on industry members.

This action follows the Department of the Treasury's report, issued on February 9, 2022, titled "Competition in the Markets for Beer, Wine and Spirits," that included recommendations related to labeling alcohol beverages with nutrition, major food allergen, and ingredient information.<sup>3</sup> The Department issued the report pursuant to Executive Order (E.O.) 14036, "Promoting Competition in the American Economy." Among other things, Treasury addressed text in E.O. 14036 that asked the Department to review labeling regulations "that may unnecessarily inhibit competition by increasing costs without serving any public health, informational, or tax purpose." The report found that "[r]egulatory proposals that could serve public health and foster competition by providing information to consumers, such as mandatory allergen,

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<sup>3</sup> The report is available at <https://home.treasury.gov/system/files/136/Competition-Report.pdf>.

nutrition, and ingredient labeling proposals, have not been implemented.” The report contains several recommendations, including that “TTB should revive or initiate rulemaking proposing ingredient labeling and mandatory information on alcohol content, nutritional content, and appropriate serving sizes.”

Further, in April 2023, the President signed Executive Order 14094, “Modernizing Regulatory Review,” encouraging agencies to provide opportunities for public participation in regulatory actions to promote equitable and meaningful participation by a range of interested or affected parties, including underserved communities. The Office of Management and Budget’s guidance for implementing E.O. 14094 encourages Federal agencies to solicit comments in non-written formats, such as live webinars or audio recordings, to encourage participation from members of the public who might not otherwise participate in the regulatory process and to use virtual listening sessions to reach people who may be unable to attend in-person sessions. The guidance also provides that listening sessions are most appropriate before a proposed rule.

## **II. Topics for Comment**

To facilitate input from the public, including individual consumers, consumer and other public interest groups, public health stakeholders, affected industry members of all sizes, and any other interested parties, TTB has developed the following list of questions. TTB encourages commenters to explain the rationale behind their comments and to include any available supporting data and other information, as appropriate.

1. Do consumers believe that they are adequately informed by the information currently provided on alcohol beverage labels?

2. Is alcohol content per serving, and nutritional information (such as calories, carbohydrates, protein, and fat) per serving important for consumers in

deciding whether to purchase or consume a particular alcohol beverage? Would a full list of ingredients, and/or major food allergens, be important information for consumers in making their purchasing or consumption decisions? In what ways would this information be useful, and in what ways could it be misleading? Is some of this information more important than others?

3. What types of per-serving nutritional information, such as calories, carbohydrates, protein, and fat, should be included?

4. Would requiring this information on labels be expected to increase the cost of the products and, if so, by how much? To what extent are businesses already following voluntary guidelines for this information? Are there alternative ways of providing the information, for example by allowing information to be provided through a website using a quick response code (QR code) or website address on the label?

5. How would any new mandatory labeling requirements particularly affect small businesses and new businesses entering the marketplace?

### **III. Public Participation**

As the intent of the public listening sessions is to allow the general public to provide input to TTB on aspects of potential approaches to labeling of wine, distilled spirits, and malt beverages with alcohol content, nutritional information, major food allergens, and/or ingredients, the sessions have been designed to facilitate one-way communications. Outside of introductory and logistical remarks, TTB will not be providing substantive information on the topic or responding to comments during the public listening sessions. Attendance at the listening sessions will be capped depending on webinar capacity limitations.

*Registration to attend virtual listening sessions.* TTB will hold virtual listening sessions on February 28, 2024, from 10 a.m. to 2 p.m., Eastern

Standard Time, and on February 29, 2024, from 1 p.m. to 5 p.m., Eastern Standard Time. To register for either of the free virtual listening sessions, please visit the following website: <https://www.ttb.gov/laws-regulations-and-public-guidance/listening-session>. You may register until 12 p.m., Eastern Standard Time, on February 27, 2024. Live closed captioning will be available during the listening sessions. TTB is committed to ensuring all participants have equal access to the session regardless of disability status. If you require reasonable accommodation due to a disability to fully participate, please contact TTB at [Outreach@ttb.gov](mailto:Outreach@ttb.gov) or 202–508–0271 as soon as possible but no later than 5 days in advance of the session you wish to attend.

TTB reserves the right to reschedule or cancel the session for any reason, including a health emergency or severe weather that impacts the ability of TTB to conduct the session safely and effectively at the proposed date and time. Any changes or updates to the date or start and end time for the session will be posted on <https://www.ttb.gov/laws-regulations-and-public-guidance/listening-session>.

*Requests to speak.* When you register, you may indicate whether you wish to speak and during which session. You must submit such requests by 12 p.m., Eastern Standard Time, on February 26, 2024. We will attempt to accommodate each speaker's session preference; however, if we are unable to do so, we will make the determination on a first-come, first-served basis, based on the time and date of the registration request.

TTB will notify speakers of the order in which they are scheduled to speak and provide information on how to log in to the session as a speaker. An individual may speak during only one of the sessions (*i.e.*, either on February 28, 2024, or on February 29, 2024, but not both). TTB reserves the right to reject the

registration of an entity, individual, or individual affiliated with an entity, that is already scheduled to present comments, to ensure that a broad range of entities and individuals are able to present. We will limit each participant's comments to 5 minutes.

No presentation, or commercial or promotional material, will be permitted to be displayed during the listening sessions.

*Streaming webcast of the listening sessions:* The listening sessions will be webcast. Please register online as described above to attend or to request to speak. Registrants will receive a hyperlink that provides access to the webcast.

*Transcripts:* As soon as transcripts of the listening sessions are available, they will be placed in Docket No. TTB–2024–0002 and will be accessible at <https://www.regulations.gov>.

*Submitting comments:* You may submit comments as an individual or on behalf of a business or other organization via the Regulations.gov website or via postal mail, as described in the **ADDRESSES** section of this document. Your comment must reference Docket No. TTB–2024–0002 and must be submitted or postmarked by the closing date shown in the **DATES** section of this document. You may upload or include attachments with your comment. You do not have to register to speak in order to submit written comments on this docket.

*Confidentiality and Disclosure of Comments:* All submitted comments and attachments are subject to public disclosure. Do not enclose any material in your comments that you consider confidential or that would be inappropriate for public disclosure.

TTB will post, and you may view, copies of this document and any comments TTB receives within the related Regulations.gov docket. In general,



TTB will post comments as submitted, and it will not redact any identifying or contact information from the body of a comment or attachment.

Please contact TTB's Regulations and Rulings Division by email using the web form available at <https://www.ttb.gov/contact-rrd>, or by telephone at 202–453–2265, if you have any questions regarding comments on this proposal or to request copies of this document, its supporting materials, or the comments received in response.

TTB notes, the public meeting is being held solely for information and program-planning purposes. Input provided during the public meeting does not bind TTB to any further action.

Signed: January 25, 2024.

**Mary G. Ryan,**

*Administrator.*

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